



03/04/97

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Schmitt, et al.

Examiner: Cuddihy, F. #9

Serial No.: 08/650,783

Group Art Unit: 3308

Filed: May 20, 1996

Docket: 498-53 CON

For: THINLY WOVEN FLEXIBLE
GRAFT

Dated: February 24, 1997

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Assistant Commissioner for Patents
Washington, DC 20231

GROUP 3300

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES
TO OVERCOME A CITED PATENT UNDER 37 C.F.R. §1.131**

Sir:

1. We, Peter J. Schmitt and Jose F. Nunez, both citizen of the United States, residing respectively at 2 Bubenko Drive, Garnerville, New York, 10923 and 11 Grove Street, Kearny, New Jersey, 07032, are joint inventors of the above-identified application.

2. At the time of the invention thereof and continuously to the present, we were and are employees of Meadox Medicals, Inc., assignee of the present application. We submit this declaration to establish completion of the invention set forth in this application in the United States at a date prior to February 8, 1994, i.e. the effective date of U.S. Patent No. 5,476,506 to Lunn which was cited by the Examiner in an Office Action mailed, November 5, 1996.

3. From the documents submitted herewith and as set forth hereinbelow, it can be seen that the invention set forth in the claims of this application was completed in the United States before February 8, 1994, which is a date earlier than the U.S. filing date of the '506 patent. Completion of the invention prior to February 8, 1994, is shown by conception and actual reduction to practice of the invention, as evidenced by construction of a sample tubular woven endoprosthesis as set forth in the present application.

4. To establish the date of completion of the invention as claimed, the following documents are being submitted as evidence.

a. An invention disclosure (Exhibit A) bearing a date signed by the inventors prior to February 8, 1994, the filing date of the '506 patent. That invention disclosure describes as Example 2 a preferred embodiment of the present invention which is set forth in the specification of the instant application. Furthermore, the invention disclosure specifically sets forth that thin wall grafts can be finely crimped with high frequency and low amplitude as is claimed in the present invention.

b. A document entitled "Weaving Setup" (Exhibit B) bearing a date earlier than February 8, 1994 which describes the manufacture of the sample product set forth in Example 2 in the above-referenced invention disclosure.

c. A document entitled "Weaving Size Check" (Exhibit C) bearing a date earlier than February 8, 1994 which describes the parameters of the sample product produced in accordance with Example 2 set forth in the above-identified invention disclosure.

d. Engineering notebook pages of Engineering Book No. 303, pages 27-31 (Exhibit D) bearing dates earlier than February 8, 1994 which describe the actual crimping of tubular woven endoprosthesis in a manner consistent with that described and claimed in the above-identified invention disclosure. These engineering notebook pages are referenced in the above-identified invention disclosure.

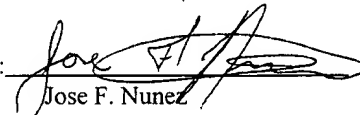
5. This declaration is being submitted in response to a first Office Action issued by the Examiner and therefore is believed to be timely filed.

We hereby declare that all statements made herein of our knowledge are true and that all statements made on information or belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 2/25/97

By: 
Peter J. Schmitt

Dated: 2/25/97

By: 
Jose F. Nunez